

## SCOTTISH CRIMINAL CASES REVIEW COMMISSION

MINUTES OF THE POLICY MEETING ON FRIDAY 19 DECEMBER 2014  
10.00 AM, PORTLAND HOUSE

### FOR DISCLOSURE VIA THE PUBLICATION SCHEME

In line with the Commission's Disclosure policy, various paragraphs may have been edited or deleted from these minutes as the information contained therein relates to specific case information and/or personnel-related matters. Where the summary of discussion has been edited or the names have been deleted, this is indicated at the start of the relevant paragraph or section.

#### Members Present:

Mrs Jean Couper CBE, Chairman  
Mr Stewart Campbell  
Professor Brian Caddy  
Mr Gerard McClay  
Mr Peter Ferguson Q.C.  
Miss Frances McMenamin Q.C.  
Professor George Irving CBE

#### Also Present:

Mr Gerard Sinclair, Chief Executive  
Mr Chris Reddick, Director of Corporate Services  
Sir Gerald Gordon Q.C., Consultant Legal Adviser

#### For Policy Items:

Mr Michael Walker, Head of Casework  
Mr Daniel Fenn, Senior Legal Officer  
Miss Mary Frances Ralston, Senior Legal Officer  
Miss Mairi-Claire Anderson, Legal Officer  
Mrs Fiona Govan, Legal Officer  
Mr Kevin Henry, Legal Officer  
Mr Jim McShane, Legal Officer  
Mr Stephen Lynn, Legal Officer

### Section 1: Governance Matters

#### 1.1 Apologies

Mr Bann had submitted his apologies.

#### 1.2 Conflicts of Interest/Declarations of Interest/Gifts & Hospitality

Members were asked to declare any known conflicts of interests or gifts and hospitality. The following declarations of interest were noted:

- There were no new declarations of interest.

- There were no new declarations of interest or gifts and hospitality.

### 1.3 Minutes of Policy meeting held on 24 July 2014

The minutes of the Policy meeting held on 24 July 2014 were noted having previously been approved by the Board on 29 August 2014. The Board also noted the version of the minutes for the Publication Scheme.

### 1.4 Matters Arising

1.4.1 Mr Reddick confirmed that the new Code of Conduct for Board Members was now in place and had been circulated to all Members along with new declaration of interest forms. He confirmed that these would be published on the website once they had all been received.

1.4.2 Mr Reddick also confirmed that the new Code of Conduct formed part of the Member's Handbook which was currently in the process of being updated prior to inclusion within the Resources section of Boardbooks.

## Section 2: Case Matters (Discussion Cases) (edited)

2.1 Mr Sinclair provided an update on one case and after discussion it was agreed that the case should be continued to the Board meeting in January 2015 for decision.

2.2 Mr McShane provided the Board with a summary of the main points of one case. After full discussion the Board agreed that an updated statement of reasons should be reconsidered by Committee C in January 2015 before being issued.

(Miss McMenamin Q.C. and Mr Ferguson Q.C. left the meeting for one case each having previously declared a conflict of interest and therefore took no part in its consideration.)

## Section 3: Proposed Interim Cases (edited)

3.1 The Board considered 1 statement of reasons. After full discussion it agreed not to refer that case to the High Court.

## Section 4: Stage 1 Pre Acceptance Cases (edited)

4.1–4.18 A total of 18 new applications were considered and the following decisions were made:

3 cases	Accepted for a review of conviction and sentence
1 case	Accepted for a review of conviction
1 case	Accepted for a review of conviction; rejected on sentence as

	the grounds of review were a repeat of the grounds of appeal
1 case	Rejected: the applicant had not appealed against conviction or sentence and there were no stateable grounds of review
4 cases	Rejected: the grounds of review were a repeat of the grounds of appeal
1 case	Rejected: the grounds of review were a repeat of the grounds of appeal and there were no stateable grounds of review
2 cases	Rejected: there were no stateable grounds of review
1 case	Rejected: there were no plausible grounds of review (guilty plea) and the applicant had not appealed against conviction
1 case	Rejected: there were no plausible grounds of review (guilty plea) and it was not in the interests of justice to accept the case for a full review; and in respect of conviction as there were no stateable grounds of review
2 cases	Rejected: it was not in the interests of justice to accept the case for a full review
1 case	Rejected: it was an incompetent application

(Miss McMenamin Q.C. left the meeting for one case having previously declared a conflict of interest and therefore took no part in its consideration.)

## Section 5: Position Papers

<b>5.1</b>	<b>Disclosure</b>	(Mr Walker)
	<b>Sufficiency</b>	(Mr Walker)
	<b>Guilty Pleas</b>	(Miss Ralston)
	<b>Interviewing Jurors</b>	(Mr Fenn)
	<b>Misdirection</b>	(Mr Fenn)
	<b>The Commission's Statutory Test</b>	(Mr Fenn)

5.1.1 Before discussing the individual position papers Mrs Couper thanked all of the respective legal officers for their work on these documents. Mr Sinclair confirmed that all of the position papers had been discussed in detail at previous Legal Officer meetings and the process had been extremely useful.

5.1.2 Each of the respective legal officers presented their position papers to the Board. The Board approved the position papers in respect of Disclosure, Sufficiency, Guilty Pleas, Misdirection and The Commission's Statutory Test, subject to agreed amendments and updates. In respect of Interviewing Jurors, the Board agreed the position paper in principle and requested that management discuss and agree the procedural aspects of the paper and update the layout of the position paper for further consideration.

- 5.1.3 Mr Campbell asked that an appropriate version control system be applied and that consideration be given to the use of series numbers for such documents.

## Section 6: Policy Matters (edited)

### 6.1 4262 Funding Paper 2014-15

Mrs Couper updated the Board as regards the 4262 funding paper.

### 6.2 SCCRC Secure Email System Update

Mr Reddick confirmed that the Audit Committee had asked that an update on the Commission's secure email proposals be provided at the Policy meeting. Mr Reddick provided an overview of the various options explored and solution which had been selected and was in the process of being tested.

### 6.3 SCCRC Disclosure Policy Update

Mr Walker provided a summary of the updated Disclosure Policy confirming that that it had been shortened by removing a number of procedural matters from the body of the policy. After discussion the Board approved the updated policy, subject to minor amendment.

### 6.4 Appeals from the High Court – Solemn Trials

Mr Sinclair confirmed that he had provided these statistics for information as they were of general interest. After discussion it was agreed that more up to date statistics would be more relevant if they were available.

### 6.5 SLAB Correspondence

Mr Fenn provided an update in respect of the ongoing issues with SLAB and informed Members that a single point of contact had now been allocated to deal with communications from the Commission with a first meeting set up for January 2015. Mr Fenn also provided an update on one application, confirming that legal aid had now been refused.

## Section 7: High Court Decisions 1 July 2014 – 12 December 2014

- 7.1 Mr Sinclair confirmed that details of past High Court decisions had been provided to Members for information.

## Section 8: Concluding Matters

### 8.1 Any Other Competent Business

## **CCRC Visits**

- 8.1.1 Mr Sinclair reported that a number of visits from the CCRC's Non-executive Directors (NEDs), Commissioners and Chairman were being planned for early 2015. The first visit would be from the NEDs and this was scheduled for Monday 19 January 2015 to coincide with one of the Commission's Committee meetings. As part of this visit he confirmed that the NEDs would also spend time with the Chairman, the management team and staff. He agreed to provide a further update when the dates for the other visits were agreed.

## **4262 Update**

- 8.1.2 Mr Sinclair and Mr Fenn provided the Board with an update on 4262 matters.

## **9.2 Date of Next Meeting**

Policy Meeting – Friday 17 July 2015 @ 10:00

**Chris Reddick**  
14 January 2015